IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

(1) S.B.CRIMINAL MISC. PETITION NO. 460/2005
(Champalal Vs. Pukh Raj)

(2) S.B.CRIMINAL MISC. PETITION NO. 461/2005
(Champalal Vs. Pukh Raj)

(3) S.B.CRIMINAL MISC. PETITION NO. 462/2005
(Champalal Vs. Pukh Raj)

Date of Order : 14/09/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Pankaj Gupta for the petitioner.
Mr. P.N.Mohanani for the non-petitioner.

BY THE COURT:-

These three criminal misc. petitions under Section 482 Cr.P.C. are directed against the orders dated 03.03.2006 passed by learned Sessions Judge, Jalore (for short 'the revisional court' hereinafter) whereby the revision petitions filed by the petitioner being Cr. Revisions No.09/05, 10/05 & 11/05 against the orders dated 25.11.2004 passed by Chief Judicial Magistrate, Jalore (for short 'the trial court' hereinafter) in Criminal Case No. 357, 358 & 359 of 2004, were dismissed.

I have heard learned counsel for the parties.

Carefully gone through the orders impugned passed by the trial court as well as by the revisional court.

By order dated 25.11.2004, the trial court took the cognizance of offence under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act' hereinafter) in all the three cases and issued process against the petitioner.

It is contended by learned counsel for the petitioner that the notice as envisaged under Section 138 of the Act was served on the petitioner demanding the cheque amount within a period of seven days from the date of receipt of the cheque and therefore, the notice does not fulfill the requirement of Section 138 of the Act. Learned counsel further submits that soon after expiry of seven days period, the complaints have been filed by the complainant and the trial court took the cognizance. No cause of action said to have been arisen to the complainant and therefore, the cognizance is bad. With these contentions, the petitioner has challenged the orders taking cognizance before the revisional court. The revisional court dismissed the revision petitions on the ground of limitation. In my view, the revisional court fell in error in dismissing the revision petitions on a technical ground of limitation without examining the merit of the case. In the circumstances, therefore, the orders passed by the revisional court deserve to be set aside.

In the result, the petitions are allowed. The orders

impugned dated 03.03.2006 passed by the revisional court are set aside and the matter is remanded to the revisional court to decide the revision petitions afresh on merit. Parties to appear before the learned Sessions Judge, Jalore on 06.11.2006. No fresh notice is necessary.

(H.R.PANWAR),J.

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